

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,

v.

ZACKARY ELLIS SANDERS,

Defendant.

Case No. 1:20-cr-00143
Honorable T.S. Ellis, III
Trial: July 12, 2021

**MEMORANDUM IN SUPPORT OF
MOTION TO SEAL DEFENDANT'S EXPERT REPORT**

I. INTRODUCTION

Zackary Ellis Sanders, by counsel, moves this Honorable Court, pursuant to Local Crim. R. 49, for entry of an Order permitting the entirety of his expert report from Dr. Tyler Whitney to be filed under seal. Sealing is necessary because it entirely discusses confidential medical information.

II. ARGUMENT

The entire expert report should be sealed because it contains confidential medical information that the public would not, under any other circumstances, be entitled to see. It is true that judicial proceedings are generally open to the public and that there exists, while not a First Amendment right, a common law right of public access to judicial records and documents. *Media Gen. Operations, Inc. v. Buchanan*, 417 F.3d 424, 429 (4th Cir. 2005) (citing *Balt. Sun Co. v. Goetz*, 886 F.2d 60, 64-65 (4th Cir. 1989)). The presumption of the right of access can be rebutted if countervailing interests heavily outweigh the public interests in access. *Virginia Dep't of State Police v. Washington Post*, 386 F.3d 567, 575 (4th Cir. 2004). The party seeking to overcome the presumption bears the burden of showing some significant interest that outweighs the presumption.

Id. at 575. Ultimately the decision to seal is a matter best left to the sound discretion of the district court. *Washington Post*, 386 F.3d at 575. With respect to medical records in particular, the Eastern District of Virginia has previously held that such records are entitled to privacy protection and may be filed under seal. *James v. Service Source, Inc.*, 2007 U.S. Dist. LEXIS 86169 at *12 (Nov. 21, 2007 E.D. Va.).

Counsel will provide the government and this Court separate unredacted versions of Defendant's pleading.

III. CONCLUSION

Defendant respectfully requests that the Court enter an Order providing that the entirety of his expert report, prepared by Dr. Tyler Whitney, shall be permanently filed under seal.

Respectfully submitted,

ZACKARY ELLIS SANDERS
By Counsel

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served this 18th day of June 2021, on all counsel of record.

/s/ Jonathan Jeffress
Jonathan Jeffress